

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

IN THE MATTER OF:



Reg. No.: 15-007543
Issue No.: 3001, 3001
Case No.: [REDACTED]
Hearing Date: June 25, 2015
County: GENESEE-DISTRICT 2
(MC CREE)

ADMINISTRATIVE LAW JUDGE: Gary Heisler

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on June 25, 2015, from Lansing, Michigan. Participants on behalf of Claimant included himself. Participants on behalf of the Department of Health and Human Services (Department) included Hearing Facilitator [REDACTED].

ISSUE

Did the Department properly determine Claimant's Food Assistance Program eligibility for April 2015?

Did the Department properly determine Claimant's Food Assistance Program eligibility for May 1, 2015 ongoing?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Claimant was an ongoing recipient of Food Assistance Program benefits. Claimant's Food Assistance Program eligibility was due for redetermination by May 1, 2015.
2. On January 26, 2015, Claimant submitted a State Emergency Relief Program application.
3. On March 25, 2015, Claimant submitted a Redetermination (DHS-1010) for his Food Assistance Program.

4. On April 2, 2015, Claimant participated in the required Food Assistance Program telephone interview. Claimant reported his property taxes had changed. Claimant was sent a Verification Checklist (DHS-3503). The only verification requested his property taxes. The property tax verification was due on April 13, 2015.
5. On April 9, 2015, Claimant submitted the required property tax verification.
6. On April 22, 2015, Claimant was sent a Benefit Notice (DHS-176) which stated his group was eligible for \$ [REDACTED] of Food Assistance Program benefits from May 1, 2015 ongoing.
7. On May 11, 2015, Claimant submitted a hearing request.
8. On May 8, 2015, Claimant was sent a Benefit Notice (DHS-176) which stated his Food Assistance Program eligibility for April was \$ [REDACTED] and beginning May 1, 2015 was \$ [REDACTED] per month.
9. On May 29, 2015, Claimant submitted a hearing request.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

The parties are in agreement that Claimant's son began receiving Supplemental Security Income (SSI) benefits in April 2015 and that increase impacts Claimant's Food Assistance Program eligibility beginning May 1, 2015. This file contains two separate, different hearing requests.

The first hearing request addresses the Department's redetermination of Claimant's Food Assistance Program eligibility from May 1, 2015 ongoing. Claimant has shelter expenses composed of a land contract payment, property insurance and property taxes. These expenses were included in his Food Assistance Program financial eligibility budget for the certification period May 1, 2014 to May 1, 2015. During redetermination of his Food Assistance Program eligibility Claimant reported a change in his property taxes and verified that change. The Department did not request verification of

Claimant's land contract or property insurance. However, the Department's Food Assistance Program eligibility redetermination did not contain Claimant's shelter expense because it had not been verified.

Bridges Administration Manual (BAM) 130 Verification and Collateral Contacts, at page 3, under obtaining verifications, states "tell the client what verification is required, how to obtain it, and the due date." It appears that the Department overlooked requesting verification of Claimant's land contract and property insurance expenses. Penalizing Claimant for not submitting verifications he was not asked for is an incorrect action.

The second hearing request addresses the amount of Claimant's Food Assistance Program benefits for April 2015, the last month of his certification period. The Department originally took action to reduce Claimant's Food Assistance Program benefits for April 2015 based on verbal information received from the Social Security Administration. The Department was told that Claimant's son received Supplemental Security Income (SSI) beginning August 2014. During this hearing the Department representative testified that further review showed that Claimant's son was eligible for Supplemental Security Income (SSI) benefits from August 2014 but did not actually receive any of the benefits until April 2015.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it determine Claimant's Food Assistance Program eligibility for May 1, 2015 ongoing.

Additionally, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it determine Claimant's Food Assistance Program eligibility for April 2015.

DECISION AND ORDER

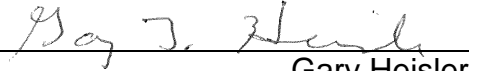
Accordingly, the Department's decision is **REVERSED** on both issues.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Re-determine Claimant's Food Assistance Program eligibility for April 2015 in accordance with Department policy and supplement Claimant any Food Assistance Program benefits he was eligible for but did not receive due to this incorrect action.
2. Re-determine Claimant's Food Assistance Program eligibility for May 1, 2015 ongoing in accordance with Department policy and supplement Claimant any Food

Assistance Program benefits he was eligible for but did not receive due to this incorrect action.

3. Issue Claimant current notice of the Food Assistance Program eligibility determinations ordered above.



Gary Heisler
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **7/2/2015**

Date Mailed: **7/2/2015**

GFH / 

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date. A copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from MAHS within 30 days of the mailing date of this Hearing Decision, or MAHS **MAY** order a rehearing or reconsideration on its own motion. MAHS **MAY** grant a party's Request for Rehearing or Reconsideration when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The party requesting a rehearing or reconsideration must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

cc:

